



Kanoë Naone <kanoen@inpeace.org>

01/14/2016 02:07 PM

To "boe\_hawaii@notes.k12.hi.us"  
<boe\_hawaii@notes.k12.hi.us>


cc

Subject testimony

I urge you to have multiple authorizers for charter schools.

Mahalo nui, -Kanoë

C. Kanoelani Nāone, Ph.D. Chief Executive Officer NPEACE

 Serving Native Hawaiian Communities for 21 years  
1001 Kamokila Boulevard, Suite 226, Kapolei, Hawai'i



Phone: (808) 693-7222 Fax: (808) 693-7221 Web: <http://www.inpeace.org>

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# HAWAI'I EDUCATIONAL POLICY CENTER

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**Testimony of HEPC to the Hawaii State Board of Education  
General Business Meeting  
January 19, 2016  
1:30 pm**

**AGENDA ITEM IV D. REPORT ON THE 2015 CHARTER LISTENING TOUR;  
ITEM VII A - PIG; AND ITEM VII B - RULES**

The report is disturbing on many levels. First, that the relationship of the authorizer to its charters is unhealthy and contentious. Broken. Second, that, left to its own interpretations, the Commission and its staff may have departed from the Charter law and the spirit of this different but equally legitimate form of public education. Third, it is not clear that the Commission is knowledgeable in the Sunshine law, and thus transparency has become an issue. Commission oversight of staff appears to be an additional issue.

HEPC supports a thoughtful and data-driven revisiting of the relationship between the BOE and the Hawai'i Charter School Commission, its staff, and the Charter Schools. It has been several years since the last revision of the law (ACT 130), the creation and appointment of the Commission, the hiring and evolution of its staff, and implementation of the law. It is also time to begin a discussion, through the promulgation of administrative rules, how new authorizers would be created, and if so, what powers and duties they would exercise.

HEPC encourages the creation of a Permitted Interaction Group, with input from appropriate resources and stakeholders, to examine the following policy issues:

1. **BOE Role and Obligations.** Examining whether the Board has exercised appropriate oversight over the Commission. To date, it appears there has not been a review.
2. **Understanding and reaffirming the original charter "model"** which was a decentralized governance approach, designed to remove bureaucratic red tape, and shift power and decision making to the school level. Charters were encouraged to be risk takers, innovators, alternative arenas for school design and management, and alternative learning and teaching environments. Risk takers, experimenters, and innovators cannot thrive if they are sanctioned for occasional failures.
3. **Examining how the Commission interprets and implements** various sections of the Charter law, particularly those sections that relate to the powers and duties of charter governing boards (302D-12 (f) and the relationship of these provisions to the powers of the Commission and its staff, reflected in part by the boilerplate contract.

Language of the law is strong and explicit, granting the governing boards oversight and responsibility for the financial, organizational, and academic viability of the school, and the "independent authority to determine" the organization and management of the school, the curriculum, and compliance with state and federal laws. The law does not give the



Commission equal power. A Contract, in this context, is an explicit and clear way of implementing the charter law, not a substitute for it. Not an amendment of it.

HEPC suggests there may have been *mission creep* by the Commission and its staff in the following ways:

- a. **One Way Contract.** The unilateral creation of and imposition of the contract with essentially a “take it or leave it” approach - including the Commission’s involvement in a legislative budget proviso that requires signing of the contract (under duress and objections) as a prerequisite for receiving any funds.
  - b. **Power Shift.** Contract provisions that essentially shift power and decision making from the governing boards to the Commission. There may be a tendency of the Commission and its staff to interpret the language of the law and the contract to transform the Commission into a defacto governing decision maker for charters.
  - c. **The Department of Charter Schools?** There is a tendency of the Commission to stray from its role of accountability to a financial manager of charter federal and state resources. Charters report Commission and staff decisions to delay or deny distribution of funds. Commission internal decisions to act in the manner of a Department of Education do not appear to be consistent with the letter or spirit of the law.
4. **Legislative Issues.** The formal and informal positions taken by the Commission and its staff at the Legislature may complicate the challenges of the charter education system. For example, a recent addition to the law requires that charters must make payroll. How this is interpreted or accomplished or calculated apparently is an additional power of the Commission. When the Commission withholds or delays funding, or constrains how charters utilize funds they have managed and saved over several years, this become a Catch – 22. Recent information suggests this “control by interpretation” will place at least eight charters in jeopardy of being closed.
5. **The Relationship of Policy to Funding and Transparent Financial Reports.** There are two transparency and operational issues there.
- a. How financial data is reported. The HIDEOE Financial reports tend to combine charter and DOE school system revenues and funding. It would be helpful if the Board required in these reports additional charts or tables that reflect Only what HIDEOE schools receive, so as to facilitate a comparison of “apples to apples.” In examining various financial audits and documents, HEPC needed to look at several documents to determine answers to simple questions such as: What percent of Federal funds do charters receive, and is this consistent with the percent of overall enrollments. (Charters 5% enrollments; 1.8% Federal funds.) It may be unintentional, but the way in which budgets are reported can complicate and disadvantage charters, who do not have a governmental agency tasked defending claims of inequity.

**HAWAII EDUCATIONAL POLICY CENTER**

1776 University Avenue, Castle Memorial Hall 133 • Honolulu, Hawai‘i 96822  
Dr. Jim Shon, Director Phone (808) 282-1509 • [jshon@Hawaii'i.edu](mailto:jshon@Hawaii'i.edu)  
<http://manoa.Hawaii'i.edu/hepc/>

- b. Underfunding impacts accountability.** The average HIDOE school has over 30 non-instructional employees assisting in filling forms, addressing compliance. Charters cannot afford this luxury. Underfunding also impacts the ability of charters to interact with the Commission. Airfares are costly. Over half of the charters are on the N. Islands.

#### AGENDA ITEM VII A. FORMATION OF A PIG

See comments above which support formation of a PIG.

#### AGENDA ITEM VII B.

HEPC sees value in creation of additional authorizers, particularly to better serve N. Island and Hawai'ian Focused schools. Multiple authorizers may also diminish the tendency of a single authorizer from believing it must act as a Department of charters.

Thank you for the opportunity to provide this testimony. HEPC stands ready to assist the Board in its efforts to improve public education in Hawai'i.

#### HAWAI'I EDUCATIONAL POLICY CENTER

1776 University Avenue, Castle Memorial Hall 133 • Honolulu, Hawai'i 96822

Dr. Jim Shon, Director Phone (808) 282-1509 • [jshon@Hawaii.edu](mailto:jshon@Hawaii.edu)

<http://manoa.Hawaii.edu/hepc/>

***Catherine H. Payne***  
**98-715 Iho Place #1404**  
**Aiea, HI 96701**

**January 13, 2016**

TO: Lance Mizumoto, Chair- State of Hawaii Board of Education  
Members of the State of Hawaii Board of Education

*Catherine Payne*

FROM: Catherine Payne, Chair- State Public Charter School Commission

SUBJECT: Comments on agenda item for General Business Meeting on  
January 19, 2016 Concerning Charter School Listening Tour

I regret that I am unable to be with you in person to respond to the document describing the Charter School Listening Tour. I have work responsibilities that could not be moved to another day.

I have read the report and all of the attachments that are posted on the BOE website. While I will reference some of the statements in the document as examples, I will not go point by point. I am disappointed that your investigator, Jim Williams, chose not to speak with anyone on the Commission or on the Commission staff before publishing his report. Comments and allegations were collected in a manner that made the result predictable and appear here to be presented as facts. The compilation serves as a preemptive attack that could discount any future response from the Commission. I find it curious that someone who purports to be interested in seeking facts would simply take down all the comments and share them publically in this way, as if they were true. If I were still teaching logical fallacies I would use this as an example of "Poisoning the Well".

As I read through Mr. Williams report I saw issues aligning in five categories.

- Concerns around the new reality of the Commission replacing the CSAO/CSRP with different focus and duties as defined in the new state law,
- Concerns that have been raised with the Commission and have been addressed, sometimes multiple times; some of these are particular to individual schools and staff has worked individually and privately with them to address the issues,
- Concerns with the performance frameworks that have been developed and are currently being used to address school accountability for academic, financial, and organizational performance,
- The ongoing disagreement on the meaning of "bilateral contract" and
- Communication and interpersonal issues that included allegations of harassment and incompetence.

I believe it is appropriate to mention this Board's instrumental role in designing the transition from the CSAO/CSRP (Charter School Administrative Office/Charter School Review Panel) to the current model. It was through their designation and contracting of NACSA (National Association of Charter School Authorizers) that the law was written and the performance frameworks were developed. NACSA has continued to play an advisory role to the commission, keeping us well informed of best practices. The BOE was "hands-on" in the establishment of the commission and in their expectation that new leadership was needed for this new era in Hawaii's charter schools.

While it might be more prudent for me to accept the comments as they are presented and hope that a more balanced presentation would be forthcoming, I have decided that to do so might be interpreted by you as agreement with Mr. Williams' report. Therefore, I will make comments on only a few specific statements in the report. In no way is this a comprehensive response to the all that is presented, but I hope it will give you some insight into what I see as a biased view of the Commission. The bulleted points are taken directly from the report. My responses follow:

- *Another attendee raised the fact that the Commission looks at the timeliness of reports submitted through Epicenter, not necessarily the accuracy of the reports. Schools are encouraged to just get the reports in on time, but then the reports are scrutinized for discrepancies.*

First, this is presented as a "fact". Second, it is self-contradictory: *The Commission does not care about accuracy and the Commission looks for discrepancies.* The facts are that the commission expects reports to be submitted on time and expects them to be accurate. Some of the deadlines are beyond the control of the commission. On many other occasions when schools have asked for extensions due to special circumstances, they have been granted. Even when critical deadlines are missed the resulting intervention timeline is quite generous.

- *The Commission was also described as a rubber stamp for the Commission staff. One attendee questioned whether the chairperson or the Executive Director is leading the Commission, with another pointing out that during Commission meetings the Executive Director sits next to the Chairperson and whispers and passes notes to her. An attendee also alleged that the Commission violated the Sunshine Law by holding a secret meeting regarding a school.*

A review of minutes from Commission committee and general business meetings is all that is needed to refute the "rubber stamp allegation. The Executive Director has a position description that assigns the responsibility for leading the staff and providing information and recommendations to the Commission so that decisions can be made. He has recently relocated to the table next to the Chair at general meetings at my request.

This is the same place the Superintendent sits at BOE meetings. There has been an occasional note or quiet comment between us, but this is rare. The Commission held a brief adjudicatory meeting on the recommendation of our counsel to confirm a prior decision made repeatedly in public meetings. It was not a "secret" meeting and the resulting decision was published. This is consistent with how the BOE makes certain decisions.

- *There were also questions as to whether the Board had oversight of the Commission's budget because the Commission exceeded its budget in the past and took funds from the schools to make up the deficit. Attendees stated that the Commission staff made decisions regarding the Commission's budget and these actions, not the Commission.*

This would appear to be accusing the Commission staff of taking money from the schools to cover Commission expenses. The CSAO model was funded with a percentage of the per-pupil allocation. When the Commission was established the Executive Director worked with the legislature to change to a separate allocation for the Commission. The Commission adheres to the Legislature's budgetary directives as to school funds and Commission funds.

- *An attendee commented that Commission staff does not facilitate collaboration between schools or the sharing of information. When a school asked to see the approved SSM [school specific measure] it was told to contact the school directly.*

This was an appropriate response to the school. I would expect that the school with the approved SSM would prefer to communicate directly with the requesting school. The Commission hosts many webinars and in-person meetings where schools can communicate with each other and staff. We also send out a weekly newsletter.

- *Attendees stated that Commissioners are not listening to the schools. Only 2-3 Commissioners have made the effort to go to the school level to listen to people and as a result they are not making fully informed decisions. An attendee questioned whether the Commission is doing its due diligence when voting. An attendee described a huge disconnect between charter schools and the Commission because the Commission is not actively listening to the schools.*

All Commissioners have visited schools in addition to the time they volunteer at least twice each month for meetings that frequently last all day. These meetings are opportunities for schools to testify in person, on the phone, or in writing. Commissioners read all written testimony. Commissioners, like BOE members, have professional responsibilities beyond the voluntary commitment they have made to Commission work.

There is much more that could be provided to you in response to the report of your investigator. I hope that you will be open to hearing from Commission staff and Commissioners. Our Executive Director leads an exemplary group of professionals who are dedicated to Hawaii's charter schools. This entire process has been demoralizing to individuals who have been going above and beyond the expectations I have of staff. They have given personal time and emotional energy to accomplish what we understand to be the expectations of the BOE and of Act 130. The suggestion of retaliation from the Commission and from outside agencies under prompting from the Commission is serious and could have legal implications so I will not comment specifically in this testimony. However, I take accusations against my professionalism and integrity very seriously

I understand that an individual's perception can also be his or her reality. I also understand that a few strong voices can disproportionately influence the direction of a discussion and silence the comments of those who might disagree but who are reluctant to speak up in front of peers. We have received comments from schools and governing board members that are not aligned with the comments reproduced in your report. Those who have expressed their feelings to us prefer not to go public as they do not want to aggravate those who have taken the lead in advancing this agenda.

As we move forward, it is my hope that the Board will carefully consider the next steps with an understanding that the report they have received is a collection of allegations, perceptions, and opinions to which we have not had an opportunity to respond. The investigator's "listening tour" collected only a portion of the picture of charter schooling in Hawaii. I would welcome an opportunity to respond.

This testimony is my own and should not be viewed as the position of the Commission. We were not made aware of the content of the report and the recommendation in time to discuss it at our January meeting.



## *Public Testimony for January 19, 2016 Meeting*

TO: Lance Mizumoto, Chair- State of Hawaii Board of Education  
Members of the State of Hawaii Board of Education

FROM: Karen Street, Vice Chair- State Public Charter School Commission

SUBJECT: Comments on agenda item for General Business Meeting on January 19, 2016:  
Report on the 2015 Charter School Listening Tour

Thank you for the opportunity to provide testimony regarding the report on the recent Charter School Listening Tour. Please note that since the Commission has not yet had the opportunity to discuss this report, this testimony reflects my personal opinions and not that of the Commission.

My name is Karen Street and in my current volunteer capacity, I serve as Vice Chair of the State Public Charter School Commission. Previously, I served alongside Jim Williams as a member of the Charter School Review Panel, the predecessor to the current Commission and also as a Board member of Ho'okako'o, the governing board for 3 of our current charter schools. In my professional career, I have served in executive leadership positions in the banking and insurance industries for over 30 years in the areas of human resources, organizational development, process improvement, and strategic planning.

I would like to first thank you for the time and commitment you invest as a volunteer to serve on the BOE and helping to improve our overall public school system. I also commend the Board for your increased leadership actions which acknowledge Charter Schools as part of the public school system.

In his book, Leadership is an Art, Max Depree says, the first role of leadership is to define reality. I think we will all admit that is more easily said than done. While I read the Listening Tour report with much disappointment and sadness, I also acknowledge that it represents "reality" as perceived by those who took the time to provide their comments.

My testimony today is not to refute "their reality", but rather to ask the BOE to consider the following comments and questions, as you work to define what the reality of our Charter School system is:

- The formation of the State Public Charter School Commission was intended to implement the transformation to a more accountable Charter School system, which would instill public confidence and in turn support high performing public charter schools. The key word being "transformation", which is always accompanied with (1) uncertainty and risk, (2) communication challenges, including defining a new common language, (3) establishing new protocols/processes, which involves a bit of trial and error, (4) setting expectations and measurements, which help to define new behaviors, and (5) fear and resistance to the transformation. Taking on the responsibility for any transformation and/or new ideas/direction usually means you will take arrows to the back....as did our pioneers, criticism....as did NASA, and skepticism.....as did Galileo, Salk, and Steve Jobs. So judging from the report, my sense is there are definitely signs of a transformation in progress.
- Communication is a 2-way street, and both the communicator and the receiver have responsibility for ensuring it takes place. I often tell leaders when they say they have told staff something, but they did not listen or hear the feedback to ask themselves "why" and what responsibility they bear in finding alternatives for the message getting through. On the other hand, when staff tells me their leaders don't communicate with them, I ask them what they have done to initiate communication. Communication, like marriage, isn't a 50-50 commitment....it is a 100% - 100% commitment to fill

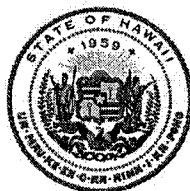
in any gaps. In addition, and very important to keep in mind, being heard doesn't always mean agreement to the other parties' viewpoint.

- Are the Commission and our staff perfect? Of course not, and any entity that is without flaws is probably non-existent today. In the demanding world we operate in, a bias toward action has been driven by previous audit findings, legislative expectations of using public funds wisely, less than positive reports on the state of Hawaii's charter schools, and a desire to improve the perception of charter schools such that they are allowed to grow and thrive within the public school system. The report speaks about encouraging innovation, and I definitely agree. However shouldn't that be true at both the school and Commission level? Mistakes will happen when embarking on a new path, but if we as leaders focus on the mistake versus accountability for the recovery, we will surely encourage extinction.
- Shouldn't chartering with "aloha" work 2-ways? Shouldn't the golden rule apply to all parties? I've often watched Commission staff take the upper road, as they listened in silence to malicious words, attacks on their character, slurs on their intelligence and integrity, all in an effort to diffuse a situation.
- There appears to be a lot of assumptions regarding Commission and Commission staff intent in the report. How is that intent known? What assumptions are folks operating under and are a lot of things being "made up" without enough information or confirmation? I will fully attest the intent of the Commission and Commission staff is to ensure high quality charter schools that can help improve the overall success of public education to benefit our children and ultimately our communities.
- The word "retaliation", a very strong word that implies intent, was used in several instances. How is retaliation being defined, what constitutes retaliation, and how is intent being confirmed? Is there any truth to the sense that some people in the schools who support the Commission's direction have been given very little encouragement to voice their divergent views publicly? Doesn't chartering with aloha need to be able to support opposing viewpoints in a healthy and open environment?
- Act 130 already provides for multiple authorizers, so the questions are how will multiple authorizes benefit the quality of charter schools, what is the appropriate timing, and how will funding/resources be leveraged with multiple authorizers?
- Please review the minutes of the Commission meetings to validate the statement the Commission is a "rubber stamp" of staff recommendations. I can tell you that being on the Commission has not been easy work, and I value the independent thinking of each Commission member. While decision-making often reflects various and sometimes conflicting viewpoints, at the end of the day each Commission member votes his or her view of not what is the "popular vote", but rather what is best for our students and the improvement, agility, and stability of quality charter schools. To suggest anything less is a dis-service to the Commissioners.

In closing, while not speaking for the Commission, I would personally welcome the BOE doing some impartial fact-finding to help them define reality and to provide the opportunity for a "listening tour" of Commissioners and Commission staff that did not occur before the release of this report.

Thank you for the opportunity to provide testimony and your thoughtful deliberations.

DAVID Y. IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

STATE OF HAWAII  
**STATE PUBLIC CHARTER SCHOOL COMMISSION**  
**(‘AHA KULA HO‘ĀMANA)**

<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

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DATE: January 19, 2016

TO: Lance A. Mizumoto, Chairperson  
State Board of Education

FROM: Tom Hutton, Executive Director  
State Public Charter School Commission

SUBJECT: General Business Meeting: Testimony on Report on 2015 Charter School Listening  
Tour, proposed Action on Permitted Interaction Group, and Development of  
Administrative Rules for Multiple Charter School Authorizers

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Thank you for this opportunity to comment on today's agenda items that relate to Hawaii's public charter school sector and the Board of Education's responsibilities toward that important part of our public school system. My testimony today is submitted in my capacity as the executive director of the State Public Charter School Commission, which has not had occasion to adopt formal positions on the items before you. Individual Commissioners also may be testifying on their own.

The creation of an impartial Permitted Interaction Group to engage with the Commission to develop a more complete and balanced picture of the kinds of issues compiled in the report on the charter school listening tour is to be welcomed. While we have not had time to go through every detail in these 60 pages, most of the issues raised initially appear not to be new and to have been the subjects both of Commission discussions with schools and other stakeholders and of Commission deliberations. Just as the Commission carefully considered and addressed the findings of the State Auditor in its recent report as to the Commission's oversight of schools, we will carefully consider what constructive criticism may be contained in this report, as well as what even the less constructive comments may suggest about the communications challenges related to the Commission's difficult responsibilities. We are confident that we can address any concerns the Board may have, in the appropriate time, place, and manner.

The Board may wish to consider, however, whether scope of the group's work as currently proposed is too narrow. The issues that it is proposed to address—whether a special review of

the Commission is warranted and whether the Board should support some proposed legislation—would be better informed by placing these narrow issues in the necessary context of a larger and much needed discussion about chartering, charter authorizing, and the Board's and the Department's roles with respect to the charter sector. As the Board initiates the promulgation of administrative rules relating to new authorizers, as the Commission embarks on a more formalized strategic planning process, and as the Board looks ahead to reviewing its own strategic plan, this larger discussion between Board and Commission will be critical. Styling the Permitted Interaction Group an "investigative committee" based on what information the Board has received at this early stage may not set the appropriate tone for the thoughtful interaction that is needed.

Thank you for your consideration of these comments.

*Hawaii Academy of Arts and Science*

Public Charter School

P.O. Box 1494, Pahoa, HI 96778

Phone: (808) 965-3730 Fax: (808) 965-3733

January 15, 2016

Hawaii State Board of Education

PO Box 2360

Honolulu, HI 96804

Testimony: BOE General meeting January 19, 2016

Chair Mizumoto and Board members,

I want to start by thanking the Board for facilitating discussion statewide about the relationship between the 34 charter schools and the State Public Charter School Commission. Although the three "listening tour" meetings were held on three islands and with 24 charters represented by Governing Board members, administrators, teachers, and supporters, there is clearly a unified voice that the Commission needs oversight, evaluation, and investigation by the BOE.

The report resulting from the tour accurately reflects the dysfunction of the Commission and its staff. Rather than providing you more examples, I want you to focus on one recent interaction with the Commission and how it was handled. With the attachments I have provided, it will show a complete disregard for accountability and transparency.

Back in August, we were informed of a negotiated collective bargaining agreement between the State, DOE, and HSTA. All eligible Unit 5 teachers were to receive a "lump sum bonus" in the academic years 2015-16 and 2017-17 of \$2000 in addition to their step increases. Our Human Resources personnel worked proactively to identify the teachers eligible for the bonuses. The spreadsheet attached defines the number of teachers at 29 representing \$59,000 in bonuses. Six of these would receive the bonuses paid from their source of funding which is from EDN 150 where Special Education funds are housed. Four of these teachers are Special Education teachers and two represent Article VI teachers who are paid directly from Department funds. The balance of the teachers (23) get paid from HAAS. HAAS is among the few schools who still have their regular education teachers on DOE payroll. This arrangement is so that HAAS does not have to cover the 7.65% burden of FICA/Medicare and have to wait sometimes half a year to get reimbursement from the State. This minimizes



at least part of our payroll in which we carry the burden of paying out these federal taxes and wait months for a reimbursement.

When the DOE payroll department asked us to provide them a list of eligible teachers to be paid the bonus on October 5, 2015 payroll, I questioned them on where the funds to cover those payments would come from. The DOE personnel could only verify that the 4 SPED teachers and 2 Article VI teachers would be covered. The balance would come through our school account which is a direct ACH transfer from our bank. At that time, I requested the DOE not to release the bonuses until I could get more information. To this day, after two rounds of complaints, HAAS has not been given the identification of those funds.

On November 30, 2015, the Governing Board chair and I forwarded a complaint to the Commission so that this matter could be discussed at the Commission general meeting on December 10, 2015. On December 8, 2015, HAAS received a response from Catherine Payne, chair of the Commission and Thomas Hutton, its Executive Director. They made HAAS aware that it was only one of two charters in the State that did not pay out the bonuses. It then referred to HAAS's strong financial position implying that we were in a financial position to pay out the bonus but did not identify the source of funds. The letter stated: "The collective bargaining appropriation did include some funds for professional development as provided for in the re-opener, but it did not include funding for step increases, as this item is included in the schools' base budgets via per-pupil funding." The collective bargaining money for Units 3 and 4 employees that represented step increases were part of the \$110,233.94 HAAS received. Because of this, I picked up the phone and immediately called Mr. Hutton. He was in the office at the time but on another call. I told the receptionist that I would gladly be placed on hold. She put me on hold, then came back in a couple of minutes to tell me that Mr. Hutton was going to be on a long call. I informed her that I would be glad to be on hold until he had a chance to talk to me. I was placed on hold and when the receptionist came back on the line, she told me that Mr. Hutton was unavailable till later that night and insisted on me making an appointment for a phone conversation. I settled with that and through email, we decided on December 11, 2015 at 9 am.

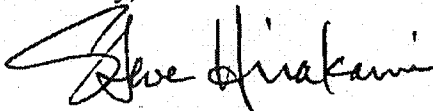
On December 10, 2015 I attended the Commission General meeting by phone. I reviewed the agenda and found that our complaint had not been placed on the agenda. I thought that was strange because I received a formal response two days before the meeting and was almost certain that it would be in the Executive Director's written report which includes complaints. I took advantage of testifying on a related item on the agenda relating to Presentation of Financial Framework review of the charter schools' first quarter Results for Fiscal Year 2015-16. After Leila Shar presented on the financial framework review, the chair asked for public testimony. I then made the Commissioners aware of the teacher lump sum bonuses and how funds have not been verified as

passing to the schools although, by that date, all schools except HAAS had distributed the bonus. In the minutes of that meeting, the chair stated that the complaint letter had been shared among the Commission and noted that a phone call was scheduled between the school and Commission staff to discuss further. It is not in the minutes but on a recording of the proceedings that the Commissioners were aware of their response to HAAS. Knowing a bit about the Sunshine law and knowing that discussing the issue and replying to a complaint outside of a meeting constitutes a violation. I contacted the Office of Information Practices and after consultation with a staff attorney, I filed a formal complaint.

On my scheduled phone call with Mr. Hutton on December 11, 2015, I once again asked for a breakdown of the collective bargaining allocation and how he came up with our collective bargaining increases amounting to \$169.96 per pupil and why the teachers increases were in the per pupil and why the other collective bargaining step increases were released via Budget and Finance. At that point, he said to me: "You are way off base on this." I replied by telling him that I was merely asking for clarification to find out the "base" and that I felt personally and professionally attacked by his insulting remark. We ended the conversation in an abrupt manner.

The Bargaining agreement was negotiated between the Board of Education and the HSTA. Because of the fact that charter school leaders have a fiduciary financial responsibility to properly distribute funds, HAAS needs the requested information to pay out the bonus. The delay from the commission to release this information has caused the HSTA to file a grievance against HAAS. The school board has tasked me, on behalf of our teachers, to bring this again to the attention of the Commission and BOE on the search for information. This is being attached to my testimony as evidence of the severed relationship with our Commission.

Sincerely,



Steve Hiramami, Director

Attachment 1	Original Complaint/Call to Action November 30, 2015
Attachment 2	Commission response to Complaint December 8, 2015
Attachment 3	Minutes of Commission General Business Meeting December 10, 2015
Attachment 4	Email follow up to phone "call appointment" December 15, 2015
Attachment 5	Second complaint Release of HSTA teacher lump sum bonus January 15, 2016
Attachment 6	HSTA grievance against HAAS



*Hawaii Academy of Arts & Science, PCS*

PO Box 1494, Pahoa, Hawaii 96778

808-965-3730 (office)

808-965-3733 (fax)

DATE: November 30, 2015

TO: Hawaii State Charter School Commission  
Hawaii State Board of Education

FROM: Hawaii Academy of Arts & Science PCS

ISSUE: Complaint / Call to Action

DESCRIPTION: Release of Funds for Teacher Lump Sum Bonus  
per HSTA Collective Bargaining Unit Agreement

AUTHORITY: 302D-25 (1)(B)

**BACKGROUND:**

1. In July 2013, the BOE and the HSTA entered into collective bargaining agreements which provided, among other things, for qualified teachers to receive pay raises.
2. In addition, the negotiated agreement provided that certain qualified teachers were to receive lump sum bonuses in the amount of \$2,000.00 for the school year 2015-16.
3. Pursuant to BOE directives, HAAS has determined which of its teachers meet the qualifying criteria and are therefore entitled to receive the negotiated bonuses.
4. In accordance with regular practice, HAAS has received written confirmation of eventual disbursement to HAAS of the funds allocated for payment of the negotiated raises in teacher salaries. Accordingly, HAAS has adjusted teacher salaries to reflect the negotiated salary increase.
5. However, HAAS has to this date not received, either from the State Public Charter School Commission, DOE, or the Department of Budget and Finance any acknowledgment or confirmation of intended disbursement to HAAS of the funds necessary to pay the \$2,000.00 bonuses agreed upon in the negotiations between BOE and HSTA.
6. HAAS does not have the funds necessary to meet the bonus payment obligation in its regular operating budget and cannot responsibly redirect the necessary monies from the already limited funds necessary to meet the needs of pupil education.

7. HAAS personnel have made repeated inquiries to the appropriate persons at the State Public Charter School Commission, DOE, and Budget and Finance for clarification regarding the disbursement to HAAS of the funds necessary to enable HAAS to meet its obligation to pay its teachers the bonuses they are clearly entitled to receive.

8. HAAS accounting personnel are prepared to meet with and/or to provide any financial/accounting information necessary to document HAAS's position.

9. Please find Attachment 1 HAAS, PCS SY15/16 Bargaining Unit 5 Step Increase Cost Analysis with costs totaling \$73567.80 (teacher names blacked out for confidentiality but can be made available). Compare HAAS total step movement costs to Attachment 2 describing HAAS portion of the current collective bargaining appropriation as described by Commission staff. Notice these two numbers are almost identical. Therefore, HAAS has been funded for the Step Increases only and has demonstrated we have not received funding for teacher bonuses. Per footnote there are 29 teacher positions eligible for the onetime bonus for an additional bargaining unit agreement cost of \$58000.00 bringing the total to \$131567.80.

10. The HAAS Governing Board is committed to achieve a prompt resolution of this situation. The welfare of our students relies upon the expertise, commitment and morale of our faculty, and the morale of the teachers depends in significant part upon their confidence that they will receive the bonuses to which they are unquestionably entitled. Our teachers deserve to receive their bonuses. HAAS has not been provided the funds required to pay those bonuses. HAAS Governing Board asks the Commission to address and resolve this situation.

**RECOMMENDATION:** Release of Collective Bargaining Unit Appropriations Accounting and Funds and, when accounting confirms that the bonus monies are not included in current appropriation, Commission shall work with proper agencies for the appropriation of teacher bonus monies and distribute to HAAS.

HAAS, PCS SY15/16 Bargaining Unit 5 Step Increase Cost Analysis

1-3

Code	LAST	FIRST	Bonus	POSITION	2014-15	2015-16	Difference	Difference for CBA	
				Teacher		\$50,235.12	\$50,235.12	\$50,235.12	
T				Teacher	\$50,232.00	0	-\$50,232.00	-\$50,232.00	resigned
T			1	Teacher	\$53,291.04	\$54,894.00	\$1,602.96	\$1,602.96	
T			1	Teacher	\$53,291.04	\$54,894.00	\$1,602.96	\$1,602.96	
T				Teacher	\$48,768.00	\$50,235.12	\$1,467.12	\$1,467.12	
T			1	Teacher	\$53,291.04	\$54,894.00	\$1,602.96	\$1,602.96	
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T				Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T			1	Teacher	\$53,291.04	\$54,894.00	\$1,602.96	\$1,602.96	
T				Teacher	\$37,500.00			\$0.00	replaced by AS
T			1	Teacher	\$46,511.04	\$47,909.04	\$1,398.00	\$1,398.00	
T			1	Teacher	\$34,251.72	\$35,281.20	\$1,029.48	\$1,029.48	
T			1	Teacher	\$55,422.00	\$57,090.00	\$1,668.00	\$1,668.00	
T			1	Teacher	\$46,511.04	\$47,909.04	\$1,398.00	\$1,398.00	
S			1	Counselor	\$40,185.60	\$41,393.76	\$1,208.16	\$1,208.16	on leave last year
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T				Teacher	\$45,156.96	\$50,235.12	\$5,078.16	\$5,078.16	
T				Teacher	\$51,738.96			\$0.00	replaced by AC
T			1	Teacher	\$63,542.16	\$65,453.04	\$1,910.88	\$1,910.88	
S			1	Counselor	\$61,744.08	\$63,599.04	\$1,854.96	\$1,854.96	
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
S				Counselor	\$48,768.00	\$50,235.12	\$1,467.12	\$1,467.12	
T			1	Teacher	\$58,798.08	\$60,564.96	\$1,766.88	\$1,766.88	
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T				Teacher	\$0.00	\$50,235.12	\$50,235.12	\$50,235.12	replaced RT
T				Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T			1	Teacher	\$53,808.96	\$55,426.08	\$1,617.12	\$1,617.12	
T				Teacher	\$50,232.00	0	-\$50,232.00	-\$50,232.00	replaced by IS
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T			1	Teacher	\$63,542.16	\$65,453.04	\$1,910.88	\$1,910.88	
T			1	Teacher	\$25,116.00	\$51,742.08	\$26,626.08	\$26,626.08	from .50 to 1.0
T			1	Teacher	\$53,291.04	\$54,894.00	\$1,602.96	\$1,602.96	
A			1	Teacher	\$51,738.96	\$53,294.16	\$1,555.20	\$1,555.20	
T			1	Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
T				Teacher	\$50,232.00	\$51,742.08	\$1,510.08	\$1,510.08	
			23					\$73,567.80	Total Step Movement Cost
				Bonus Calculation Estimate:				+	
			23	\$2,000.00	\$46,000.00			\$58,000.00	Total Bonus Cost
				+ 4 SPED Teachers	\$8,000.00				
				+ 2 Article VI Teachers	\$4,000.00			\$131,567.80	Total BUS Agreement Cost





RE: Action Item, Response needed: Teacher Status and HSTA Lump Sum Payment -----

DOE Payroll

Leila Shar

to:

Steve\_Hirakami

10/07/2015 10:02 AM

Cc:

Jessica\_Rojas, Nadia\_Ranne

Hide Details

From: Leila Shar <Leila.Shar@spcsc.hawaii.gov>

To: Steve\_Hirakami/HAASPCS/HIDOE

<Steve\_Hirakami/HAASPCS/HIDOE@notes.k12.hi.us>,

Cc: Jessica\_Rojas/HAASPCS/HIDOE

<Jessica\_Rojas/HAASPCS/HIDOE@notes.k12.hi.us>, Nadia\_Ranne/HAASPCS/HIDOE

<Nadia\_Ranne/HAASPCS/HIDOE@notes.k12.hi.us>

Steve, I spoke to Jessica since you were not available when I called earlier this morning. Your request wasn't clear to me, so she explained that there was a desire to "match" the funding to the disbursements to teachers. I explained the calculation of the allocation to schools is prepared by Budget & Finance based on the employee information provided by schools last September. Although the calculation is performed by B&F at the employee level, the information provided to the Commission is summarized by school -- amount provided earlier for HAAS is \$110,233. This amount is comprised of \$73,866 for BU5, \$1,267 for BU4 and \$35,100 for BU3.

\*

Jessica asked for the detail calculation for each employee to ensure payouts to employees would agree to funds provided. I will request this information from B&F, but when I asked for this in the past, I was told it was not available. If you have other questions, please let me know -- thanks!

From: Steve\_Hirakami/HAASPCS/HIDOE@notes.k12.hi.us

[mailto:Steve\_Hirakami/HAASPCS/HIDOE@notes.k12.hi.us]

Sent: Wednesday, October 07, 2015 8:24 AM

To: Leila Shar

Cc: Jessica\_Rojas/HAASPCS/HIDOE@notes.k12.hi.us; Nadia\_Ranne/HAASPCS/HIDOE@notes.k12.hi.us

Subject: Action Item, Response needed: Teacher Status and HSTA Lump Sum Payment -----DOE Payroll

Leila,

Could you forward us any information you have on this subject, especially when and how the forms are coming to us? Our teachers have been in constant communication with their union. We have no answers for them. The Commission needs to disseminate some directions on this subject as there are hundreds of charter school teachers who should have the benefit of the status of this. Please respond.

Steve

--- Forwarded by Steve Hirakami/HAASPCS/HIDOE on 10/07/2015 08:19 AM ---

From: Malle Horikawa/OHR/HIDOE

To: Nadia Ranne/HAASPCS/HIDOE@HIDOE,

Cc: Steve Hirakami/HAASPCS/HIDOE@HIDOE

Date: 10/08/2015 10:30 PM

Subject: Re: Teacher Status and HSTA Lump Sum Payment --- DOE Payroll

Hi Nadia:

Attachment 2

You need to contact the Charter School Commission on the funding of the bonus.

Let me know when your final list is ready and we will process the Form 5s for payment.

Maile Horikawa  
Personnel Specialist  
Office of Human Resources  
Certificated Transactions  
Ph 808 441-8348  
Fax 808-586-3439

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-----Nadia Ranne/HAASPCS/HIDOE wrote: -----  
To: Maile Horikawa/OHR/HIDOE@HIDOE  
From: Nadia Ranne/HAASPCS/HIDOE  
Date: 10/05/2015 04:21PM  
Cc: Steve Hiramami/HAASPCS/HIDOE@HIDOE  
Subject: Teacher Status and HSTA Lump Sum Payment -----DOE Payroll

Aloha Maile,

Thanks for your call today. We are working on our response.

Where are the funds coming from for the payments DOE payroll would like to issue on 10/20/15?

Mahalo,  
Nadia  
965-3730 ext. 238

----- Forwarded by Nadia Ranne/HAASPCS/HIDOE on 10/05/2015 04:15 PM -----

From: Steve Hiramami/HAASPCS/HIDOE  
To: Maile Horikawa/OHR/HIDOE@HIDOE,  
Cc: Mary Jane Munoz <[MaryJane.Munoz@spcsc.hawaii.gov](mailto:MaryJane.Munoz@spcsc.hawaii.gov)>, Nadia Ranne/HAASPCS/HIDOE@HIDOE, Jessica Rojas/HAASPCS/HIDOE@HIDOE  
Date: 10/05/2015 08:58 AM  
Subject:

---

Aloha Maile,

This is our response per Mary Jane's e-mail below. Please feel free to contact myself or Nadia Ranne, Human Resources Manager, if you have any questions or need additional information.

Mahalo,  
Steve  
(808) 965-3730

Below is the list of our BU05 employees with a Form 5 indicating "FP - PCS Employee with DOE Tenure".

#	LAST	FIRST	EID	FTE	Form 5 "PCS Employee with DOE Tenure"
1				1.00	1
2				1.00	1
3				1.00	1
4				1.00	1
5				0.60	1
6				1.00	1
7				1.00	1
8				1.00	1
9				1.00	1
10				1.00	1
11				1.00	1
12				1.00	1

Below is our list of BU05 employees hired at HAAS prior to 7/1/13. Note that these teachers were never in a probationary period as charter school teachers have yearly contracts.

#	LAST	FIRST	EID	FTE	Hired at HAAS prior to 7/1/13
1				1.00	1
2				1.00	1
3				1.00	1
4				1.00	1
5				1.00	1
6				1.00	1
7				1.00	1
8				1.00	1
9				0.80	1
10				1.00	1
11				1.00	1
12				1.00	1
13				1.00	1
14				1.00	1
15				1.00	1
16				1.00	1
17				1.00	1

This is a list of teachers hired at HAAS after 7/1/13. Not eligible per HAAS employment dates, but we know that three transferred to us from teaching positions at other schools. We don't have confirmed start dates for non-HAAS positions. See Comments.

#	LAST	FIRST	EID	DATE HIRED AT HAAS	FTE	Hired at HAAS after 7/1/13	Comments
1				07/23/15	1.00	1	
2				07/28/14	1.00	1	
3				07/30/13	1.00	1	
4				07/28/14	1.00	1	
5				07/23/15	0.50	1	
6				08/05/14	1.00	1	
7				07/23/15	1.00	1	
8				08/05/13	1.00	1	
9				07/28/14	1.00	1	

From: Mary Jane Munoz <MaryJane.Munoz@spcsc.hawaii.gov>

To:

Date: 09/28/2015 02:29 PM

Subject: RE: Teacher Status and HSTA Lump Sum Payment —DOE Payroll

Aloha Directors/Principals, Business Managers, and Payroll Staff,

DOE has not processed any \$2,000 lump sum bonus for the charter schools (this includes the SPED and Article VI teachers). In order to process the lump sum payments, DOE is requesting the following information:

- Name
- Employee ID
- School

Please e-mail the information directly to Malle Horikawa, Personnel Specialist, DOE OHR Certificated Transactions, at [malle\\_horikawa@notes.k12.hi.us](mailto:malle_horikawa@notes.k12.hi.us). You can also reach her at 808-441-8348.

Once again, below are the criteria for the lump sum payment:

1. On active paid status (not on long-term leave);
2. Full-time (or half-time for a \$1,000 payment, provided he or she meets the other criteria);
3. Licensed (not unlicensed or holder of an Emergency Hire Permit); and
4. Not a probationary teacher who started serving probation on or after July 1, 2013

Mahalo for your patience and cooperation,

Mary Jane P. Munoz  
State Public Charter School Commission  
1111 Bishop Street, Suite 516  
Honolulu, Hawaii 96813  
Phone: (808) 586-3782  
Fax: (808) 586-3776

E-mail: [maryjane.munoz@spcsc.hawaii.gov](mailto:maryjane.munoz@spcsc.hawaii.gov)

Website: <http://chartercommission.hawaii.gov>

\*\*\*\*\*

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\*\*\*\*\*



DAVID Y. IGE  
GOVERNOR



CATHERINE PAYNE  
CHAIRPERSON

STATE OF HAWAII  
STATE PUBLIC CHARTER SCHOOL COMMISSION  
(‘AHA KULA HO‘ĀMANA)  
<http://CharterCommission.Hawaii.Gov>  
1111 Bishop Street, Suite 516, Honolulu, Hawaii 96813  
Tel: (808) 586-3775 Fax: (808) 586-3776

December 8, 2015

VIA E-MAIL

Michael Dodge, Governing Board Chair  
Steve Hirakami, School Director  
Hawaii Academy of Arts and Sciences (HAAS)  
15-1397 Homestead Rd.  
Pahoa, HI 96778

RE: Complaint regarding teacher lump sum bonuses

Dear Michael and Steve:

Thank you for communicating to us on December 1, 2015 your concern about funding for teacher lump sum bonuses. The Commission certainly agrees with you that our public school teachers deserve this recognition of their hard work.

The allocations of the collective bargaining funds in question had been processed and were transferred to school accounts on the same day you sent us your complaint. The funds transferred to HAAS were in the amount that previously had been indicated to HAAS in the correspondence you attached. On the same day the charter schools also received thirty percent of their annual per-pupil funding.

As far as the Commission is aware, every charter school in the state except HAAS and Connections already had paid its eligible faculty members the lump sum bonuses to which they are entitled. This early in the fiscal year the schools had ample cash for this purpose because they receive sixty percent of their annual per-pupil funding in July. Indeed, as you correctly emphasized in your most recent previous complaint, HAAS is in a strong financial position. According to HAAS's financial reports, the school ended the 2014-2015 fiscal year with \$1,115,118 on hand and ended the first quarter with \$2,272,458.

The Commission also has kept the Hawaii State Teachers Association informed of the situation to help prevent any misunderstandings among its members.

Hawaii Academy of Arts and Sciences (HAAS)

Page 2

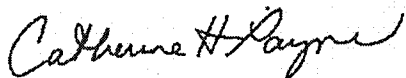
December 8, 2015

As for the amount of funding allocated to HAAS, again, the Department of Budget and Finance (B&F) calculated the amount to be allocated to every public school based on employee information each school had provided in August of 2014. The allocation process had been communicated to the schools in the October 21, 2014 webinar organized by the Commission and delivered by B&F. The recording of that webinar is available for viewing on the Commission's website by clicking on the "For Schools" tab and then on "Financial Performance."

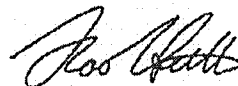
Based on the information submitted by HAAS last year, B&F calculated the allocation for the lump sum bonuses at a higher amount than HAAS does. The collective bargaining appropriation did include some funds for professional development as provided for in the re-opener, but it did not include funding for step increases, as this item is included in the schools' base budgets via per-pupil funding. Like all other state agencies, all public schools received ninety percent of the funds appropriated. As with past appropriations, the Commission is requesting that the Governor release the last ten percent to charter schools in recognition of their small budgets. We are hopeful that we will succeed as we did previously.

Finally, it is worth noting that, as you may recall, the previous practice in the charter sector was to allocate collective bargaining appropriations on a per-pupil basis, rather than even attempting to base them on labor costs. The Commission's approach is more difficult but better aligns school costs to funding. Had this latest appropriation been allocated using the old method, schools would have received \$169.96 per student, which for HAAS would have equated to \$100,788, less than the \$110,233.94 it received.

Sincerely yours,



Catherine Payne  
Chairperson



Thomas E. M. Hutton  
Executive Director

c: Hawaii Board of Education

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Attachment 3

1 of 9



STATE OF HAWAII  
STATE PUBLIC CHARTER SCHOOL COMMISSION  
(‘AHA KULA HO‘ĀMANA)

**GENERAL BUSINESS MEETING**

Minutes of the meeting of Thursday, December 10, 2015

Queen Liliuokalani Building  
1390 Miller Street, Honolulu, Hawaii  
Fourth Floor, Room 404

**ATTENDANCE**

Jill Baldemor  
Mitch D’Olier  
Peter Hanohano  
Kalehua Krug (arrived at 10:34 a.m.)  
Ernest Nishizaki  
Catherine Payne (Chairperson)  
Roger Takabayashi (left at 11:53 a.m. and returned at 11:57 a.m.)

**EXCUSED**

Karen Street (Vice Chairperson)  
Peter Tomozawa

**ALSO PRESENT**

Tom Hutton, Executive Director  
Leila Shar, Financial Performance Manager

**I. Call to Order**

Commission Chair Catherine Payne called the meeting to order at 10:32 a.m.

Chair Payne announced and congratulated Jannelle Watson of the Commission staff on her promotion to the position of Executive Assistant to the Executive Director.

Commission Chair Payne also thanked Lynn Finnegan, former Executive Director of the Hawaii Public Charter School Network and welcomed new Executive Director Jeannine Souki.

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Executive Director Tom Hutton welcomed Souki and shared Souki's past experience.

II. Approval of General Meeting Minutes:

a. November 19, 2015

Commission Chair Payne called for public testimony. No public or written testimony provided.

**ACTION: Motion to approve the General Business Meeting minutes of November 19, 2015 (Takabayashi/D'Olier). The motion passed unanimously.**

III. EXECUTIVE SESSION

*This portion of the meeting is a closed meeting under Section 92-4 and Section 92-5(2), Hawaii Revised Statutes*

a. Consult with Board's Attorney. Boards are authorized to consult in an executive meeting with their attorneys concerning the board's powers, duties, immunities, privileges, and liabilities

i. Discussion on Proposed Settlement of Hālau Lōkahi Charter School Outstanding Obligations

**ACTION: Motion to approve to move into Executive Session at 10:36 a.m. (Takabayashi/D'Olier). The motion passed unanimously.**

Commission Chair Payne reconvened the meeting at 11:04 a.m.

Commission Chair Payne shared in Executive Session the Commission discussed the proposed settlement of Hālau Lōkahi Charter school's outstanding obligations.

IV. Action on Proposed Settlement of Hālau Lōkahi Charter School Outstanding Obligations

Commission Chair Payne called for public testimony. No written testimony provided.

John Thatcher, Principal at Connections Public Charter School, provided testimony, expressing hope for positive outcomes to the situation.

**ACTION: Motion to approve the proposed settlement of Hālau Lōkahi Charter School's outstanding obligations as discussed in Executive Session (Takabayashi/D'Olier). The motion passed unanimously.**

Commission Chair Payne noted that until notified the proposal has been approved the terms discussed in Executive Session are confidential.

V. Update on the Office of the Auditor's Study of Public Charter Schools' Governing Boards

Hutton presented the update on the Office of the Auditor's Study of Public Charter Schools' Governing Boards. He shared background that it is the fifth time the Office of the Auditor has weighed in on the charter school system. He noted in 2005 there were audits of two schools, in

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2011 a Performance Audit of the Hawaii Public Charter School System, and in 2014 a report on the implementation of the State Auditor's 2011 recommendations. He discussed the new audit study, which focused on the financial failure of Hālaui Lōkahi Charter School, the Commission and governing boards, including four selected schools based on public data and media reports of the schools, as well as the responses to the study from the Commission and these four charter schools.

Hutton highlighted the study's findings and updates on lessons learned and actions already taken or planned, including the following:

- The audit study noted that the school's October enrollment count of 23% under projection and the Commission acceptance of the school's reassurances. Hutton noted the Commission's Financial Framework includes an enrollment variance measure, as it is critical to a school's budget. Now, charter schools who have a 10%+ variance must submit a revised budget or contingency plan. He shared that recently there were seven schools that fell into that bracket and the Commission received a revised budget or contingency plan from each.
- The audit study noted that the Commission overlooked a finding in the school's financial audit that noted that the school was using a line of credit, which is a warning sign as state agencies are not allowed to have a line of credit without the approval from the Department and Budget and Finance. Hutton explained that the Commission has reviewed all school audits on this and that one charter school recently closed its line of credit. The Commission also has reached out to the lending community regarding the approval process required before a line of credit can be extended to a charter school.
- The audit study noted that the Commission did not engage directly with the governing board regarding the enrollment variance and concerns. Hutton confirmed that it was protocol at the time for the Commission staff to work with the school staff but that now high-staked communication include the governing board chair and, in more serious situations, the entire governing board.
- The audit study noted that the current Financial Performance Framework requires schools to provide financial data to the Commission six weeks after the end of the fiscal quarter. Hutton acknowledged that this is a significant time lag and that at some point the Commission may need to reconsider the deadline.
- The audit study discussed the heavily front-loaded per-pupil funding allocation schedule, in which schools receive 90% of their annual per-pupil funds by December 1. Hutton discussed the Commission annualizes the run rate for schools as a way to insure the financial viability of each school throughout the school year but that this still can obscure the financial standing of the school. He said the Commission is looking into legislation to spread the allocations better but will need to solicit input from charter schools regarding the operational need for some front-loading of charter school funding to reflect heavier expenses at the beginning of the school year and spending flexibility.
- The audit study noted that the Commission lacked written staff protocols. Hutton shared that the Commission staff was in the early stages of building the charter school structure at the time and that the Commission did not inherit protocols from the Charter School Administration Office, but now the Commission staff has been adopting internal operational protocols.



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- The audit study noted the Commission's difficulty in contacting school staff. Hutton stated that at times this remains a problem, but Commission engagement with the governing boards help address this concern.
- The audit study noted that schools failed to post school minutes as required by law and charter contract, which seriously impeded the State's ability to know what happened with Hālau Lōkahi. Hutton discussed the Organizational Performance annual rating and the five areas that the Commission is monitoring, one of which is this issue. He shared the Auditor's suggestion that governing boards consider including the requirements in their own bylaws and said the Commission will relay this to the boards.
- The audit study noted that the Hālau Lōkahi governing board received infrequent financial reports from the school administration and the Auditor raised concerns about governing boards who met quarterly. Hutton shared that both the Attorney General and Ethics Commission have warned about the importance for governing boards to exercise independent oversight and be attentive to financial health and financial controls. He noted that the Commission has prioritized engagement with, and awareness-raising among, governing boards.
- The audit study noted that the Commission did not enforce the contractual requirement to submit a copy of the lease or occupancy agreement from each school. Hutton acknowledged that although the having the lease or occupancy agreements were not have been a priority among other compliance items it would have been helpful to have the leases within the context of assessing the financial health of each school. Hutton stated that the Commission has all leases on file and will be doing a review of those leases for any issues that may be problematic.

Hutton discussed the findings and current changes related to three other schools, which included:

- Ka Waihona o ka Na'auao Public Charter School had an active line of credit. Hutton related that the school has closed is out and according to its revised budget and cash flow forecast is on track for the fiscal year.
- Kualapu'u School: A Public Conversion Charter has experienced an enrollment decline which poses a sustainability risk. Hutton related that the school has adjusted expenditures and the governing board is looking to hire an outside consultant to develop a five-year sustainability plan.
- Hawaii Technology Academy's 2008 contract with K12, Inc. was not a favorable one. Hutton related that the school continues to pay down the contract but the school's financial outlook is sound. The Auditor also noted that the school needs to pay attention to enrollment, but Hutton related that the school's enrollment reduction was a deliberate strategic decision.

Hutton discussed additional findings and current changes related to the Commission, which included:

- The audit study noted that the Commission does not review the required board policies and procedures for quality, except for the admissions and enrollment policies and procedures. Hutton shared the Commission may reconsider reviewing policies and adding additional guidelines for governing boards if this is necessary but that the current charter contract relies mostly on transparency.

APPROVED

- The audit study observed that the charter contract uses "policy" and "procedures" interchangeably and suggested to provide more clarity, and noted that some of the required policies had not been posted online. Hutton shared that the Commission believes schools are in compliance but stated there may be an issue of the policies being "readily accessible" from the school's home page. He added that that some policies may be within a parent or student handbook and so not easy to find on the website. The Commission will look into the issue of the distinction between policy and procedures.
- The audit study noted that the Commission's Intervention Protocol of non-compliance was not being enforced consistently and that its triggers were not clear. Hutton responded that some triggers are very clear but that the Commission continues to strike a balance in its enforcement as the schools and the Commission work together on compliance issues.
- The audit study found that the Commission relies too heavily on self-reporting by the schools. Hutton responded that the Commission needs to have some level of trust with the schools and that the Commission has a range of tools of enforcement, which can be changed when it becomes apparent that this is necessary. He said that authorizers need to strike an appropriate balance between responsible oversight, in light of issues that have come to light, and the operational flexibility charter schools need. He discussed the upcoming site visits that will include spot checks on certain things noted by the Auditor.

Finally, Hutton discussed the findings and current changes related to the last school, Myron B. Thompson Academy. The audit study found that the school has a \$4 million cash reserve, in addition to the held \$255,000 the Commission has pending the ethics and criminal investigations. The Auditor flagged areas of expenditures spent on private music lessons or gymnastics for students and uncertain how it relates to a school program. Hutton responded that the school has acted on the Commission's suggestion to designate these funds for their intended facilities-related purpose rather than showing them as unrestricted funds, and that Commission will research the question about the private lessons.

Commissioner Peter Hanohano asked if the federal funds are consistent. Hutton responded statutorily it is required to be equitable, similar to the operations funds. Commissioner Hanohano discussed previous testimony submitted by school leaders on not receiving federal dollars that they are entitled to. Hutton shared that concern was flagged in Act 130 and there are working groups assigned to focus on transparent information.

Commissioner Ernest Nishizaki expressed some disagreement with the Auditor's conclusions as to Commission staff regarding Hālau Lōkahi. Hutton responded that although the Commission staff has recently been reconstituted when the events unfolded and in many ways was still putting the oversight system in place, the staff was not oblivious to the enrollment variance and reviewed the school's quarterly financials. He shared the staff was too deferential to the charter school's autonomy and has learned a hard lesson. Commissioners discussed the Auditor's findings further.

Commission Chair Payne called for public testimony. No written testimony provided.

## APPROVED

Thatcher, Principal at Connections Public Charter School, provided testimony. He asked that the Commissioners read the report thoroughly and for the dissemination of lessons learned. He stated he had great concerns for items that were not included in the report such as Hālau Lōkahi asking for reimbursement for FICA expenses. He asked whether there are proposals for legislative changes and, if so, why they have not yet been placed on the agenda. He discussed Myron B. Thompson Academy's additional funds not from a supplemental grant which is held separately and used at the school's discretion.

No action required.

VI. Action on State Public Charter School Commission's 2015 Financial audit study

Financial Performance Manager Leila Shar presented on the State Public Charter School Commission's 2015 financial audit study. She shared that the financial audit study was provided to the Board of Education but was only finalized after the Commission approved the annual report at its last meeting. She noted that the report included no corrections actions or findings. She recounted that the prior year's report had one finding and that the Commission office was required to follow up on the audit findings of the charter schools. These tasks have accomplished to the satisfaction of the Auditor.

The Commission and Shar discussed the financial audit further.

Commission Chair Payne called for public testimony. No public or written testimony provided.

**ACTION:** Motion that the Commission accept the FY2015 financial audit study as prepared by CW Associates (Takabayashi/D'Olier). The motion passed unanimously.

VII. Presentation of Financial Framework Review of Charter Schools' First Quarter Results for Fiscal Year 2015-2016

Shar presented on the financial framework review of the charter schools' first quarter results for fiscal year 2015-2016.

Commission Chair Payne called for public testimony. No written testimony provided.

Steve Hirakami, Principal at Hawaii Academy of Arts & Science Public Charter School (HAAS), provided testimony about his concerns about funding for teacher bonuses and a complaint he submitted about a lack of verification of the breakdown of the funding provided by the Department of Budget and Finance for the bonuses.

Commission Chair Payne stated the complaint letter had been shared among the Commission and noted that a phone call was scheduled between the school and Commission staff to discuss further. Commission Chair Payne shared the Commission will take his testimony into consideration and invited other charter schools to contact the Commission staff if they have any concerns about the issue. The Commission and Hirakami discussed the issue further, per pupil

funding, the scheduled phone call and report of the call for the Commission, and response letter from the Commission Chair and staff.

No action required.

VIII. Monthly Financial Report on Commission's Financial Monitoring of Schools

a. Update on Na Wai Ola Public Charter School's October 2015 Monthly Financial Report for Commission's Financial Monitoring of School

Shar presented on the October 2015 monthly financial report for Na Wai Ola Public Charter School for Commission's financial monitoring of the school. She stated that based upon the schools' cash balance at the end of October, and based on annualized figures for the school's monthly expenses, the per-pupil distribution, school expenses, employee loans, she has serious concerns regarding the school's sustainability through the rest of the school year if expenses are not reduced. She reported that she has asked the school to provide an updated cash flow forecast for the remaining year and a budget forecast that shows that the school will be able to sustain operations through the rest of the school year, by the next Commission meeting in January. She shared that if the school did not make any changes to its expenditures, at its current rate the school could end the school year with a loss of \$400,000. However, she cautioned that the amount of loss is an estimated annualized number based upon the assumption that the school did not make any changes to their current rate of expenditure. It is not unusual for schools to have a higher expenditure rate at the beginning of the school year, so the current expenditure rate as it now appears based on the early months may already be lower. She stated she will be visiting the school to discuss further.

The Commission and Shar discussed the monthly payroll; federal funds received, which includes Title I and pre-k grant funds; the school's next steps; and other school expenses. Commissioner Nishizaki suggested that the school be required to meet a specific deadline for the employee loans to be paid back by. Commission Chair Payne reiterated that no charter schools should be making any loans to employees.

The Commission discussed the Commission's role, authority, and timeline and options for interventions at the school, including the possibility of reconstituting the governing board. Hutton responded that the Commission staff has communicated to the school the seriousness of the situation and the need for action by the governing board in time for the January 2016 general business meeting. He stressed that although it is a serious situation the Commission has plenty of tools to help the school before contemplating any drastic action. He did note that current governing board still is the pre-Act 130 model comprising employees, parents, and community members, and that this model may not be serving the school well as it confronts such serious challenges. He shared he has discussed this candidly with the governing board and that they were receptive to the need to update their bylaws to be more in keeping with Act 130's emphasis on skill sets.

## APPROVED

Commission Chair Payne called for public testimony. No public or written testimony provided. No action required.

b. Update on Ka'u Learning Academy's October 2015 Monthly Financial Report for Commission's Financial Monitoring of School

Shar presented on Ka'u Learning Academy's October 2015 monthly financial report for Commission's financial monitoring of school. She shared the school is in a comfortable cash position. The Commission will continue to monitor.

Commission Chair Payne called for public testimony. No public or written testimony provided. No action required.

c. Update on Ka Waihona o ka Na'auao Public Charter School's October 2015 Monthly Financial Report for Commission's Financial Monitoring of School

Shar presented on Ka Waihona o ka Na'auao Public Charter School's October 2015 monthly financial Report for Commission's financial monitoring of school. She discussed the school's days' cash on hand, account receivables, the school's reserves, and school's cash flow till the end of the year. She noted that the school's line of credit has been closed. She reported that a cash reserve is reflected on the school's balance sheet but staff is seeking clarification as to whether the cash has been set aside. She reminded the Commission to keep in mind that the cash flow is before the enrollment true-up. She shared the school seems in a reasonably safe position but will continue monitoring.

Commissioner Nishizaki asked if the cash flow format is a standard from the Commission and suggested, if not, to provide a standard format, because he felt the cash flow report submitted by the school is difficult to read and he is unable to see if the school's cash flow gets them through the school year, especially with reference to payroll. Shar responded that the format currently is not standard and that she will develop a standard format. Commission Chair Payne clarified that the cash flow does not account for the higher per-pupil allocation for the current school year.

Commission Chair Payne called for public testimony. No public or written testimony provided. No action required.

d. Update on Mālama Honua Public Charter School Quarterly Report for 1st Quarter for Commission's Financial Monitoring

Shar presented on Mālama Honua Public Charter School's quarterly report for for the first quarter for Commission's financial monitoring of the school. She noted that the Commission moved from monthly to quarterly financial monitoring due to the school's satisfactory reporting in 2014-2015. She discussed the school's cash balance and concluded that the school is currently in a comfortable position.

## APPROVED

Commissioner Nishizaki and Shar discussed whether the school and State of Hawaii run on a cash or accrual basis, with Shar indicating that the school and the State run on an accrual basis. Commissioner Nishizaki shared that a cash balance would get a true picture. Commissioner D'Olier expressed agreement with Commissioner Nishizaki's comment on reviewing on a cash balance and the importance of monthly cash.

Commission Chair Payne called for public testimony. No public or written testimony provided. No action required.

## IX. Executive Director's Written Report

- a. Update on Notices of Deficiency/Concern
- b. Update on Complaints Against Charter Schools
- c. Notification of Governing Board Meeting Waivers
- d. Annual Commission Report to Hawaii Teacher Standards Board ("HTSB") on Teacher Licensure in Charter Schools
- e. Update on Procedures for a Charter School to Request Consideration of Extenuating Circumstances Affecting Academic Performance Results

Commission Chair Payne called for public testimony. No written testimony provided.

Thatcher, Principal at Connections Public Charter School, provided testimony, repeating the concern expressed earlier by Hiramami. He suggested the Executive Director report include what is happening with the schools and complaints from schools. He discussed the teacher bonuses and the breakdown.

Hutton discussed the HTSB report on teacher licensure in charter schools and commended the schools on their impressive progress in coming into compliance with teacher licensure requirements. He thanked Organizational Performance Manager Danny Vasconcellos for his hard work on the issue and commended the HTSB for its attentiveness to the charter school sector of Hawaii's public school system.

No action required.

## X. Adjournment

Commission Chair Payne adjourned the meeting at 12:30 p.m.



From: Steve Hiramami/HAASPCS/HIDOE  
 To: Tom Hutton <Tom.Hutton@spcsc.hawaii.gov>, Leila Shar <Leila.Shar@spcsc.hawaii.gov>,  
 Cc: Jessica Rojas/HAASPCS/HIDOE@HIDOE  
 Date: 12/15/2015 09:57 AM  
 Subject: Lump sum bonuses

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Tom and Leila,

Per our phone conversation on Friday, December 11, 2015 at 9am, we ended the conversation by you and Leila saying that you will have to go back to Budget and Finance to clarify the collective bargaining increases, bonuses, and professional development money. In our conversation, you also stated that the lump sum bonuses and professional development funds were in the collective bargaining money forwarded by B&F. You stated that the Unit 3 and 4 step increases were also in the collective bargaining allocation. You stated that the step increases for teachers were imbedded in our per pupil amount. We are requesting two things from you now. We want a timeline on when we could expect to receive this information. We request a breakdown of collective bargaining step increases per bargaining unit and the amounts that are included in our per pupil allocation by unit. We are requesting that you provide evidence of where our teacher lump sum bonuses have been distributed to the school. We consider this a simple request. Please respond as to when we could expect an answer. At our Governing Board meeting last night, the teacher representative for HSTA requested a timeline. We are requesting that from you so we may provide them an answer.

Steve



Attachment 5

*Hawaii Academy of Arts & Science, PCS*

PO Box 1494, Pahoa, Hawaii 96778

808-965-3730 (office)

808-965-3733 (fax)

DATE: January 15, 2016

TO: Hawaii State Charter School Commission  
Hawaii State Board of Education

FROM: Hawaii Academy of Arts & Science PCS

ISSUE: 2<sup>nd</sup> Complaint / Lack of Response / Call to Action

DESCRIPTION: Release of Funds for Teacher Lump Sum Bonus  
per HSTA Collective Bargaining Unit Agreement

AUTHORITY: 302D-25 (1)(B)

**BACKGROUND:**

See complaint dated November 15, 2015 which remains unresolved.

Per a phone conversation on Friday, December 11, 2015 at 9am, commission staff indicated they will have to go back to Budget and Finance to clarify the collective bargaining increases, bonuses, and professional development money.

In the conversation, it was stated that the lump sum bonuses and professional development funds were in the collective bargaining money forwarded by B&F.

It was stated that the Unit 3 and 4 step increases were also in the collective bargaining allocation.

It was stated that the step increases for teachers were imbedded in our per pupil amount.

HAAS, PCS requested two things as a result of the phone conversation:

1. A breakdown of collective bargaining step increases per bargaining unit and the amounts that are included in our per pupil allocation by unit. We are requesting that you include & provide evidence of where our teacher lump sum bonuses have been distributed to the school.
2. A timeline on when we could expect to receive this information.

The phone conversation was followed up by an email from our School Director on December 15, 2015 resulting in zero response.

**RECOMMENDATION:** Release of Collective Bargaining Unit Appropriations Accounting and Funds and, when accounting confirms that the bonus monies are not included in current appropriation, Commission shall work with proper agencies for the appropriation of teacher bonus monies and distribute to HAAS.

Attachment 6



HAWAII STATE TEACHERS ASSOCIATION  
1200 Ala Kapuna Street  
Honolulu, Hawaii 96819

HSTA Grievance #H-16-05  
Certified Mail #7015-0640-0005-0771-4502

## CHARTER SCHOOL GRIEVANCE FORM

STEP

1 ☐

2 ☒

Instructions for Employee: Complete this form. Retain one (1) copy, submit two (2) copies to Association, one (1) copy to the Director, and one (1) copy to the LSB.

TO: Michael Dodge Governing Board Chair, Hawaii Academy of Arts & Sciences Hawaii  
(Name of Director) Position/School Office (District)

FROM: Hawaii State Teachers Association Exclusive Representative for BU 5 Teachers Hawaii Academy of  
(Name of Grievant) Position Arts & Sciences  
School/Office

In accordance with Article V, Grievance Procedure of the Agreement between the Local School Board and the Hawaii State Teachers Association, a formal grievance is hereby submitted:

### STATEMENT OF GRIEVANCE:

Date alleged violation first became known or date(s) of subsequent alleged violation(s): November 20, 2015 and ongoing

1. Nature of grievance (Briefly state pertinent facts):

The employer failed to pay the one-time lump sum of \$2000, to the following teachers:

- 1) Teachers who were actively employed as tenured full time licensed teachers as of Oct. 5, 2015 who completed probation or began serving probation prior to July 1, 2013.
- 2) Teachers who were actively employed as tenured half time licensed teachers as of Oct. 5, 2015 who completed probation or began serving probation prior to July 1, 2013, will be paid a one-time lump sum of \$1000.

NOTE: This Grievance is being filed to meet timeline requirements, some of the charter schools are waiting for their funds from the Charter Commission office, some schools are in the process of paying their teachers and others have not responded as to their status on the matter. HSTA will work with individual charter schools to resolve any grievances filed on this matter.

2. Specific term or provision of the Agreement allegedly violated:

Collective Bargaining Agreement between the Hawaii State Teachers Association and the State of Hawaii Board of Education, dated July 1, 2013 – June 30, 2017 AND the Supplemental Agreement between the Hawaii State Teachers Association and the State of Hawaii Board of Education, dated 2015-2017.

Article XX – Salaries

Article XXV – Maintenance of Benefits

Article XXIV – Miscellaneous

Article XXVI – Entirety Clause

3. Complete this section if grievance is filed at Step 2. Specific portion of the prior decision being appealed.

This class grievance is being filed at Step 2 pursuant to Article V, section H. of the Unit 5 Agreement.

### REMEDY SOUGHT:

1. The Employer shall cease and desist from actions to deny any teacher payment of the one-time lump sum \$2000 (or \$1000 for half time teachers), including any teachers paid via the DOE Payroll system.
2. The Employer shall make timely payment, or pay interest for any late payment.
3. The Grievants will be made whole with all salaries, rights, benefits and privileges pertaining to their conditions of employment.

Re. A. Yamane for Hawaii State Teachers Association  
(Signature of Grievant)

12/03/15  
(Date Filed)

SA  
(Receiving Party's Initials)

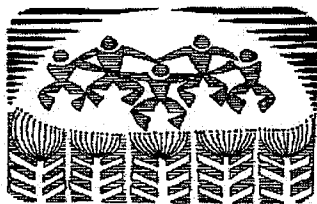
12/7/15  
(Date Rec'd)

Re. A. Yamane  
(Signature of Association Grievance Rep/Assoc. Field Representative, if applicable)

1. WHITE – Employer
2. GREEN – Employee/Grievant

3. BLUE – Local School Board
4. PINK – Association (Field Representative)

5. CANARY – Association (Central File)



**Volcano School of Arts & Sciences, PCS**

PO Box 845

Volcano, Hawaii 96785

Phone: (808) 985-9800 Fax: (808) 985-9898

*Learning through Volcano's unique natural and cultural resources to become creative global citizens*

January 18, 2016

Dear Directors of the Board of Education,

I am submitting additional testimony as follow-up to the release of the Listening Tour Report.

The report appropriately captures the experiences and feedback from the schools. However in my perception from working both as a Commission staff member and Charter School director, several Commission staff members are consistently helpful and responsive. I believe that if the statements were rephrased to include qualifiers, such as "often" or "sometimes," the report would be more accurate. Overall, the report captures the main issues, but I feel it is important to acknowledge the hard work and dedication of several Commission staff members and Commissioners.

Mahalo,

Kalima Cayir  
Interim Education Director



Administrative Testimony  
Testimony of Kamanaʻopono Crabbe, Ph.D.  
Ka Pouhana, Chief Executive Officer

State of Hawaiʻi, Board of Education

Agenda Item VII.A: BOARD ACTION ON DESIGNATION OF BOARD MEMBERS TO AN INVESTIGATIVE COMMITTEE (A PERMITTED INTERACTION GROUP PURSUANT TO HAWAII REVISED STATUTES SECTION 92-2.5(b)(1)), CONCERNING BOARD RESPONSIBILITIES UNDER HAWAII REVISED STATUTES SECTION 302D-11; OVERSIGHT OF PUBLIC CHARTER SCHOOL AUTHORIZERS AND REVIEW OF PROPOSED CHARTER SCHOOL LEGISLATION

January 19, 2016

1:30 p.m.

Queen Liliʻuokalani Building

The Administration of the Office of Hawaiian Affairs (OHA) **SUPPORTS** Agenda Item VII.A which would set up a permitted interaction group (PIG) to determine whether a special review of the State Public Charter School Commission (“Commission”) is appropriate, and to also review two legislative proposals and recommend to the State Board of Education (“BOE”) whether to formally support them through written testimony to the Legislature. OHA supports Agenda Item VII.A because it would further BOE Policy E3 by improving the educational climate in our public charter schools.

OHA has invested over \$15,000,000 since SY2005-2006 in the seventeen Hawaiian-focused public charter schools that make up Nā Lei Naʻauao Alliance for Native Hawaiian Education (“Nā Lei Naʻauao”), because research has found that Hawaiian students exposed to culturally-driven educational strategies have a stronger sense of socio-emotional well-being, deeper engagement with their schools, and a stronger commitment to civic activities in their community. Indeed, the BOE’s recently adopted Policy E3, Nā Hopena Aʻo, which is applicable to both charter school and Department of Education school students, is premised on six outcomes—Belonging, Responsibility, Excellence, Aloha, Total Wellbeing and Hawaiʻi—and is based upon the belief that all students need both social and emotional learning skills and academic mindsets to succeed in college, careers, and communities locally and globally.

OHA supports the establishment of a PIG to determine if a special review of the State Public Charter School Commission is warranted. The Agenda Item VII.A submittal drafted by BOE member Jim Williams notes that a listening tour was conducted to hear the concerns and feedback from charter school governing board members, directors, and staff regarding the State Public Charter School Commission and the possibility of multiple charter school authorizers. As the submittal notes, the comments from attendees were “of significant breadth and depth and suggest there may be a pattern of well-founded

complaints about the Commission, thus warranting a more formal investigation by the Board."

Agenda Item VII.A also notes that during the listening tour, some charter school leaders asked if the BOE would consider supporting two legislative proposals, drafted by OHA, related to independent legal counsel and the establishment of additional charter school authorizers. These legislative proposals were drafted in response to credible concerns raised by Nā Lei Na'auao, and appear to be substantiated by comments made by Charter School leaders and stakeholders during the BOE's Listening Tour. OHA therefore supports a review of these proposals by the PIC and recommendation to the BOE on whether to formally support through written testimony to the Legislature. These proposals would 1) Allow charter schools to employ or retain legal counsel other than the Attorney General for the narrow purposes of charter contract negotiation, charter contract revocation, or charter contract nonrenewal processes; and 2) requiring the BOE to establish by December 1, 2016, the annual application and approval process for eligible entities to apply for chartering authority, via HRS Chapter 92 public hearings as an expedited process, in lieu of promulgating Chapter 91 administrative rules.

Mahalo nui for the opportunity to provide testimony in **SUPPORT** of Agenda Item VII A. Should you have any questions, please feel free to contact OHA Public Policy Advocate Monica Morris at (808) 594-0285 or by email at [monicam@oha.org](mailto:monicam@oha.org).

'A'ohe lua e like ai me ka ho'ona'auao 'ana o ke kamali'i. Nothing can compare in worth with the education of our children.



Administrative Testimony  
Testimony of Kamanaʻopono Crabbe, Ph.D.  
Ka Pouhana, Chief Executive Officer

State of Hawaiʻi, Board of Education  
AGENDA ITEM VII.B: BOARD ACTION ON DEVELOPMENT OF ADMINISTRATIVE  
RULES FOR MULTIPLE CHARTER SCHOOL AUTHORIZERS

January 19, 2016                      1:30 p.m.                      Queen Liliʻuokalani Building

The Administration of the Office of Hawaiian Affairs (OHA) **SUPPORTS** Agenda Item VII.B which would further efforts to establish additional charter school authorizers, either through authorizing legislation or administrative rule-making.

OHA has invested over \$15,000,000 since SY2005-2006 in the seventeen Hawaiian-focused public charter schools that make up Nā Lei Naʻauao Alliance for Native Hawaiian Education ("Nā Lei Naʻauao"), because research has found that Hawaiian students exposed to culturally-driven educational strategies have a stronger sense of socio-emotional well-being, deeper engagement with their schools, and a stronger commitment to civic activities in their community. Indeed, the Board of Education's ("BOE") recently adopted Policy E3, Nā Hopena Aʻo, which is applicable to both charter school and Department of Education school students, is premised on six outcomes—Belonging, Responsibility, Excellence, Aloha, Total Wellbeing and Hawaiʻi—and is based upon the belief that all students need both social and emotional learning skills and academic mindsets to succeed in college, careers, and communities locally and globally.

Despite the National Association of Charter School Authorizers (NACSA) recommendation against relying too long upon a single charter school authorizer, the Hawaiʻi State Public Charter School Commission ("Commission") is the sole authorizer for all public charter schools in the state. Hawaiʻi currently has thirty four charter schools and that figure is expected to grow. HRS §302D-4, which was part of Act 130 enacted by the 2012 Legislature, expressly provides for the establishment of additional authorizers, but appears to prohibit the BOE from approving any applications for chartering authority until the BOE promulgates administrative rules. According to NACSA, a single authorizer may have a tendency to create unnecessarily bureaucratic and overly burdensome regulations over time, particularly as more charter schools are established and overseen by the authorizer. Such regulations and requirements may eventually result in the loss of charter schools' intended freedom to be innovative in their development of class curricula, instructional practices, and school administrative approaches. In light of comments made by charter school leaders and stakeholders during the BOE's recent listening tour, during which serious concerns were raised about the Commission, and the fact that the Commission continues to be the only charter school authorizer despite the enactment of

HRS §302D-4 four years ago, it is incumbent on the BOE to explore options to establish additional charter school authorizers. Moreover, two eligible entities for chartering authority under HRS §302D-4, the University of Hawai'i-West O'ahu and the County of Hawai'i, have expressed interest in serving as, or investigating entering into a long standing partnership to becoming, charter school authorizers.

OHA urges the BOE to support both the legislative proposal and the development of administrative rules simultaneously, to establish additional charter school authorizers, because should the legislative proposal not become law, the administrative rules would be the vehicle through which additional authorizers are established.

Mahalo nui for the opportunity to provide testimony in **SUPPORT** of Agenda Item VII.B. Should you have any questions, please feel free to contact OHA Public Policy Advocate Monica Morris at (808) 594-0285 or by email at [monicam@oha.org](mailto:monicam@oha.org).

'A'ohe lua e like ai me ka ho'ona'auao 'ana o ke kamali'i. Nothing can compare in worth with the education of our children.





888 Mililani Street, Suite 601  
Honolulu, Hawaii 96813-2991

Telephone: 808.543.0000  
Facsimile: 808.528.4059

[www.hgea.org](http://www.hgea.org)

January 19, 2016

State of Hawaii  
Board of Education  
P.O. Box 2360  
Honolulu, HI 96804

RE: Hawaii State Board of Education, Human Resources Committee, January 19, 2016 testimony of the HGEA regarding Department Directed Leave and Leave Pending Investigation DDL/LPI

Dear Chair DeLima, Vice Chair Minn and Director(s):

Pursuant to your request for a written version of our testimony today, the Hawaii Government Employees Association ("Union") provides the following italicized version of our testimony below:

*My name is Irene Puuohau and I am the Assistant for Collective Bargaining with the HGEA the Hawaii Government Employees Association.*

*Over the course of several years, we have formally and informally offered to be available during executive session with all of you or to be available to any Board member to further clarify our position and our invitation to do so, remains open.*

*Before I begin I would like to address those who are curious as to why there has been a noticeable increase charges the Union has filed at the Hawaii Labor Relations Board against the Department and Board of Education, the following general statement is provided for your consideration:*

*I have been a union organizer for over 30 years.*

*It is a certainty that the union will always be at a disadvantage in the union/employer relationship. This is because of two things; first the members of our union must choose to engage with us unlike the employer who has direct access to them every day; second is because all information lies with the employer who is the custodian of that information. Therefore, the union must always rely upon the employer to produce the information it needs to fairly represent its membership.*

*Question: Why is this important?*

*This is important because we too are held by standards which are embedded in Chapter 89 Hawaii Revised Statutes. We have a duty to fairly represent our members and it becomes increasingly difficult when information is not provided in a timely manner or in reasonable completeness so that we are able to engage with the Department.*

*You can give me a stack of paper that looks impressive but if the answers to our questions or concerns are not in that stack, it is just paper and it is useless. In the last (4) four years, I can tell with conviction that I received a lot of useless "paper."*

**Question: As the Board of Education, how many times have you asked the Department for information and received all that you requested, in a timely manner, and in reasonable completeness as to allow all your questions to be answered?**

*You are the Board of Education and I would imagine that your requests are given first priority. I do not believe that the efforts made to gather the information the union requests equals the effort made for all of you in terms of timeliness and urgency. But we are here to say that we are important too; we are the voice of your employees, of our members. So when "relevant" information is not provided as a result of the employer's actions or lack thereof, litigation becomes necessary because again we also have a legal duty to represent.*

*Having said this:*

*The HGEA Union represents 8 out of the 14 bargaining units within the States' Public Sector, they are Units 2, 3, 4, 6, 8, 9, 13 and 14. Six (6) of the eight (8) bargaining units we represent are employed with the DOE they are:*

*Units 2- Blue collar supervisors*

*Units 3- White collar employees*

*Unit 4- White collar supervisors*

*Unit 6- Educational Officers*

*Unit 9- Nurses*

*Unit 13- Professional and Scientific employees*

*We advocated for all members of the HGEA and as such we have responded at length to this LPI/DDL consultation and others directly related to it, and have yet to receive the information we requests, clarification of the purpose of the changes and/or answers to our questions.*

*These include:*

*Code of Conduct Standard Practice Submitted: on 6/15/2015 and again on 7/20/2015*

*Consultation on the LPI/DDL submitted: 12/20/2015*

*With the limited time in which to testify, our testimony today is focused upon the impact this proposal will have on educational officers that includes school level administrator(s) whose treatment arguably impacts all.*

*There are a number of cases where an EO is advised that a complaint has been made and they await opportunity to be investigated and that process takes years. There are cases where the investigation does take place but the process is not completed, that process takes years. There are cases that are investigated multiple times, that takes years. There are cases where the investigation is completed but the discipline takes a year or longer to be imposed and now, there are complaints being investigated without an effort to determine the merits of the complaint "BEFORE" someone like a school principal is removed from their position. Whether you remove a principal and transfer them to another position or place them on DDL prematurely or without sufficient evidence of possible wrong doing, the impact is a negative one. Things are getting worse not better.*

**Question: Does the "removal" (DDL or transfer) of a principal improve trust? Improve the credibility and reputation of that principal? Improve the school climate and community involvement in the school? The answer is NO.**

*In our opinion, the basis of the problems being experienced that include but are not limited to the duration of department directed leave, the failure of the Department to provide employees their rights to due process, and the trend of conducting investigations on complaints regardless of "merit" lies with the Department's choice to depart from maintaining the long standing Certificated Personnel Policies and Regulations (5000 Series).*

*Certificated Personnel Policies and Regulations (5000 Series) is comprehensive in that it recognizes the complexity of the work performed by Unit 6 employees who are both employer and union and by doing so the Certificated Personnel Policies and Regulations (5000 Series) provides for consistency, fairness and accountability in the application of personnel policy and procedures by communicating to certificated employees their rights, privileges, benefits, obligations, responsibilities and associated procedures.*

*With all due respect, one cannot solve the problem of "time" by ignoring the reason it takes so long and the root or source of the problem simply by setting a "shorter" timeline.*

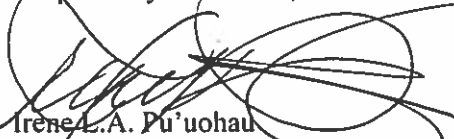
*Setting timelines that are short as a means to address the duration of time it takes for an investigation to come to closure instead of implementing with fidelity a process that is consistent, fair and allows for accountability in the application of personnel policy and procedures by communicating to certificated employees their rights, privileges, benefits, obligations, responsibilities and associated procedures- will only serve to harm employees and increase liability and litigation for the Department and by doing so, will harm children and schools. Thank you.*

Thank you for the opportunity today to provide our testimony to you for your consideration. In addition to the testimony here, please also consider the changes that have occurred that directly impact the increase of complaints and therefore increase in investigations. All is relative and inter-related; from the directives on schools to carry out mandates with not enough time, resources or training to do so with fidelity which causes upset in the community and with staff to the creation of the fraud hotline when there is no capacity to address internally all the complaints received in a fair and timely manner.

Finally, please understand that we the HGEA, are here as a stakeholder whose goals are your goals, to see our children receive the best education we can provide to them.

Without compromising the rights of our membership, we wish to work with you in achieving this goal. Thank you.

Respectfully Submitted,



Irene L.A. Pu'uohau  
Assistant for Collective Bargaining  
HGEA AFSCME Local 152 AFL-CIO



# KAMEHAMEHA SCHOOLS

TESTIMONY  
By Ka'ano'i Walk  
Kamehameha Schools

Board of Education  
Meeting Date: 1:30 p.m., January 19, 2016  
Queen Lili'uokalani Building, Room 404

To: State of Hawai'i Board of Education

RE: **Testimony in Support of the Establishment of Administrative Rules and Support for Multiple Public Charter School Authorizers**

My name is Ka'ano'i Walk and I serve as the Senior Policy Analyst of the Community Education Division of Kamehameha Schools. We **support** the designation of Board members to an investigative committee concerning Board oversight of public charter school authorizers. We applaud the Board's recent Charter School Listening Tour as a progressive process that connects Board members with Hawai'i charter school stakeholders in their communities. We are sincerely grateful for the opportunity to participate and we look forward to engaging in further dialog surrounding these issues.

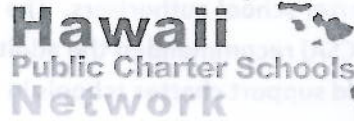
We also **support** the development of administrative rules for multiple public charter school authorizers. We recognize that the Hawai'i State Public Charter School Commission is operating at capacity with the current number of charter schools, and we support the Board's exploration of additional authorizers.

Kamehameha Schools advocates for and supports the achievement of Hawai'i's Native Hawaiian public school students. As such, we have been a collaborator with Hawai'i public charter schools for over a decade. Through our work with Hawaiian focused public charter schools, we hope to significantly impact more children and their families through education. We believe that Hawaiian focused charter schools provide quality educational choices for our families and ultimately enhance both academic achievement and engagement for students.

Founded in 1887, Kamehameha Schools is a statewide educational system supported by a trust endowed by Princess Bernice Pauahi Bishop, whose mission is to improve the capability and well-being of Native Hawaiian learners. We believe that by continuing to engage in dialog around these policies, we can contribute in a positive and meaningful way.

The proposed actions by the Board promotes, Kūlia i ka nu'u. To constantly strive for the summit! We commend the Board for striving to increase the effectiveness of our public education system.





**Testimony of Hawaii Public Charter School Network to the Hawaii State Board of Education**

**General Business Meeting**

**January 19, 2016**

**1:30 pm**

**Queen Liliuokalani Building, 1390 Miller Street, Room 404, Honolulu, Hawaii 96813**

**Re: Support for Agenda Items VII – A (Permitted Interaction Group) and VII – B (Administrative Rules for Multiple Charter School Authorizers)**

Aloha Chair Mizumoto, Vice Chair De Lima and Members of the Board of Education:

On behalf of the Hawaii Public Charter School Network (HPCSN), I am writing to testify in support of Agenda item VII-A – permitted interaction group (PIG); and item VII-B – Administrative Rules for Charter School Authorizers.

These Action Items are in response to Board of Education Listening Tours on Oahu, Hawaii Island and Kauai, which took in testimony of 81 attendees representing approximately 75 percent of charter schools around the state. Participants included charter school governing board members, charter school leaders and staff and community stakeholders who expressed concerns on multiple levels from challenges with communication to the charter school commission and staff; capacity of commission staff and staff turnover; the lack of another charter school authorizer; distribution of federal funds; oversight and legal representation issues for charter schools.

Since the passage of Act 130 in 2012 overhauling Hawaii's charter schools laws and the consequent reconstitution of the Charter School Administrative Office and Charter School Review Panel into the Hawaii Public Charter School Commission, a regulatory agency and board who's mission is to "to authorize high-quality public charter schools throughout the State," the state has not evaluated the effectiveness of the Hawaii Public Charter School Commission.

HPCSN supports a thoughtful and inclusive discussion and evaluation of the Hawaii Public Charter School Commission led by the BOE to determine the effectiveness of the state's charter school policy changes and pursue the promulgation of administrative rules of how new charter school authorizers would be established and what powers and duties they would need to exercise.

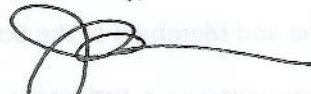
**VII – A. HPCSN supports the creation of a Permitted Interaction Group with input from appropriate resources and stakeholders to examine the role and responsibilities of the Hawaii Public Charter School Commission and review any proposed charter school legislation.**

**VII – B. HPCSN supports the development of administrative rules to provide for the creation of multiple charter school authorizers. The National Association of Charter School Authorizers (NACSA) recommended the addition of another authorizer. Another authorizer could support charter schools in neighbor islands or Hawaiian-culture focused schools and may also help set new standards for best practices among authorizers for the state.**

HPCSN works to advocate and support charter schools in Hawaii and to be a voice for children and families that seek choice in an independent public education school setting.

Thank you for consideration of our comments. We appreciate the opportunity to provide testimony on behalf of HPCSN.

Sincerely,



Jeannine A. Souki  
Executive Director  
Hawaii Public Charter School  
600 Queen Street, C-4  
Honolulu, HI 96813